

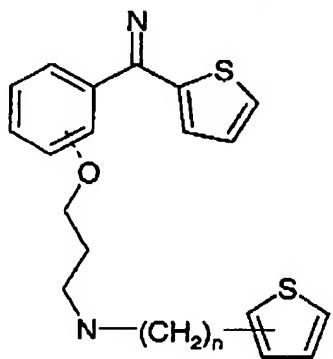
Remarks

Restriction Requirement.

The Examiner has maintained the restriction for the reasons set forth in the Office Action of November 1, 2004. The Examiner asserts that the instantly-claimed compounds contain a core of bicyclic-thiophene compound as the technical feature common in all invention groups. The Examiner claims that this technical feature was known in the art prior to the filing of the instant application. The Examiner cites to Ong et al (1987) and says "this feature does not provide a contribution over the art and thus unity of invention among the groups are lacking". However, Applicants are not claiming compounds disclosed in the Ong et al reference. These compounds are **disclaimed** by the proviso at the end of Claim 1.

The "unity of invention" standard is set forth in 37 CFR 1.475. See 37 CFR 1.499 and MPEP 1893.03 and 1895.01 (4). Accordingly, an international or national stage application shall relate to one invention only or to a group of inventions so linked as to form a single inventive concept. The requirement for unity of invention shall be fulfilled only when there is a technical relationship among the inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the *claimed inventions, considered as a whole*, makes over the prior art. 37 CFR §1.475(a).

Applicants again assert that the claimed invention i.e. the *claimed compounds* which do not include the prior art compounds, having the core set forth in Applicant's response of September 30, 2004, provide a contribution over the prior art. For the sake of convenience, that core is replicated below:



Applicants respectfully request reconsideration of the Group proposed by the Applicant in the response of 9/30/04. Once again, for the sake of convenience, that Group is replicated below.

The Group encompassing claims drawn to compounds and compositions of formula I, wherein

X is N(CH₃) or O;

R₁ is OH or C₁₋₆ alkoxy;

R₂ is H or C₁₋₆ alkyl;

R₃ is (CH₂)_n Q, wherein

Q is thienyl, and

Q is optionally substituted with one or two moieties independently selected from halo, C₁₋₆ alkyl, C₁₋₆ alkoxy, hydroxy, S(O)₂NH₂, trifluoromethyl, or cyano, and

n is 1 or 2; and

R₄ is H or C₁₋₆ alkyl.

The breadth or scope of "new" group VIII proposed by the Examiner in the Office Action mailed on 11/1/04 is less than the scope of the Group proposed by Applicant in the 9/30/04 response to the Office Action. In fact, the Group declared by the Examiner (i.e. wherein R₁ is alkoxy only and R₂ is alkyl only) does not encompass any of the numerous exemplified compounds set forth in the instant application. The Examiner has provided no rationale for limiting the Group as set forth on page 4 of said Office Action. If the restriction requirement is maintained, Applicant requests that Examiner set forth the rationale for limiting the invention to these the particular definitions. Also, as a result of the "new" Group set forth on page 4 of said Office Action wherein the Examiner defines R₃ to be "as claimed", original claims 88, 93, 113 and 119 should also be considered pending.

Furthermore, in the event that the requirement for restriction is maintained, Applicants submit that once the compounds of the present invention are found to be novel, then the other Groups defined by the Examiner that contain any compositions of matter containing those compounds should also be found to be novel and rejoined. Likewise, pursuant to linking claim practice, at least one of the method claims should be rejoined.

Furthermore, Applicants affirm their right to file one or more divisional applications with respect to any of the non-elected subject matter.

Claim objections:

The Examiner has objected to Claims 1-3, 6, 11, 16-21, 124 and 125 for containing non-elected subject matter. Applicant has complied with Examiner's request to amend the claims to exclude non-elected subject matter. In view of this amendment, only claims 1, 2, 88, 93, 113, 119, 124 and 125 are considered to be pending.

Claim rejections:

The Examiner has rejected Claims 1-3, 6, 11, 16-21, 124 and 125 under 35 U.S.C. §102(b) as being anticipated by Ong et al (1987). These compounds have been specifically disclaimed by the proviso at the end of original Claim 1. This proviso has been maintained in currently amended Claim 1. Notwithstanding the proviso which renders the rejection improper, it should also be noted that there is no overlap with the compounds of Ong et al. and the compounds defined by the "new" Group set forth in the Office Action of 11/1/04. Applicant argues that this rejection should be withdrawn.

Conclusion:

In view of the above, Applicant requests reconsideration of the Restriction Requirement and/or allowance of the application.

Respectfully submitted,


Barbara E. Kurys, Reg. No. 34,650
Attorney/Agent for Applicant

Aventis Pharmaceuticals Inc.
Patent Department
Route # 202-206 / P.O. Box 6800
Bridgewater, NJ 08807-0800
Telephone (908) 231-2965
Telefax (908) 231-2626

Aventis Docket No.: USHMR2023US PCT